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DEPARTMENT OF COMMERCE
INTERNATIONAL TRADE ADMINISTRATION

(A-351-845)

Certain Hot-Rolled Steel Flat Products from Brazil: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that certain hot-rolled steel flat products (hot-rolled steel) from Brazil are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2014, through June 30, 2015. The final dumping margins of sales at LTFV are listed below in the “Final Determination” section of this notice.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Peter Zukowski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0189.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 2016, the Department published the *Preliminary Determination* of this antidumping duty (AD) investigation.¹ The following events occurred since the *Preliminary Determination* was issued. In March 2016, the Department received supplemental cost responses and revised sales and cost files from Companhia Siderurgica Nacional (CSN), a mandatory

¹ See *Certain Hot-Rolled Steel Flat Products From Brazil: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures*, 81 FR 15235 (March 22, 2016) (*Preliminary Determination*).

respondent in this investigation. In June 2016, SSAB Enterprises, LLC, and Steel Dynamics, Inc.,² and CSN submitted case briefs³ and rebuttal briefs.⁴

Scope of the Investigation

The products covered by this investigation are certain hot-rolled steel flat products from Brazil. For a complete description of the scope of this investigation, *see* the “Scope of the Investigation,” in Appendix I of this notice.

Scope Comments

In accordance with the Preliminary Scope Determination⁵, the Department set aside a period of time for parties to address scope issues in case briefs or other written comments on scope issues. No interested parties submitted scope comments in case or rebuttal briefs; therefore, the scope of this investigation remains unchanged for this final determination.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice.⁶ A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and

²The petitioners in this case are AK Steel Corporation (AK Steel), ArcelorMittal USA LLC, Nucor Corporation, SSAB Enterprises, LLC, Steel Dynamics, Inc., and United States Steel Corporation (collectively, the petitioners). SSAB Enterprises, LLC and Steel Dynamics, Inc., submitted case and rebuttal briefs on behalf of all of the petitioners.

³ *See* Letter from SSAB Enterprises, LLC, and Steel Dynamics, Inc., “Certain Hot-Rolled Steel Flat Products From Brazil: Petitioners’ Case Brief” (June 17, 2016); Letter from CSN, “Certain Cold-Rolled Steel Flat Products from Brazil and Certain Hot-Rolled Steel Flat Products from Brazil: CSN’s Case Brief” (June 17, 2016).

⁴ *See* Letter from SSAB Enterprises, LLC, and Steel Dynamics, Inc., “Certain Hot-Rolled Steel Flat Products From Brazil: Petitioners’ Rebuttal Brief” (June 22, 2016); Letter from CSN, “Certain Hot-Rolled Steel Flat Products from Brazil: CSN’s Rebuttal Brief” (June 22, 2016).

⁵ *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Certain Hot-Rolled Steel Products From Australia, Brazil, Japan, the Netherlands, the Republic of Korea, Turkey, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations” dated March 14, 2016 (Preliminary Scope Decision Memorandum).

⁶ *See* Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations “Issues and Decision Memorandum for the Final Determination of the Antidumping Duty Investigation of Certain Hot-Rolled Steel Flat Products from Brazil” (August 4, 2016) (Issues and Decision Memorandum).

Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and it is available to all parties in the Central Records Unit, room B-8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in April and May 2016, the Department verified the sales and cost data reported by CSN, pursuant to section 782(i) of the Act. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondent.⁷

Use of Adverse Facts Available

The Department found in the *Preliminary Determination* that Usiminas Siderurgicas de Minas Gerais S.A. (Usiminas) withheld requested information, significantly impeded the proceeding, and did not cooperate to the best of its ability in responding to the Department's requests for information.⁸ Therefore, in accordance with sections 776(a)(2)(A) and (C) of the Act, 776(b) of the Act, and 19 CFR 351.308(a), the Department preliminarily determined the weighted-average dumping margin for Usiminas based on facts otherwise available with an adverse inference and preliminarily selected 34.28 percent as the adverse facts-available dumping margin for Usiminas, which is the highest margin alleged in the petition.⁹ This rate was

⁷ See Memoranda to the File: "Certain Hot-Rolled Steel Flat Products from Brazil: Sales Verification Report for Companhia Siderurgica Nacional," dated May 20, 2016; "Certain Hot-Rolled Steel Flat Products from Brazil: Sales Verification Report for Companhia Siderurgica Nacional LLC USA," dated June 2, 2016; "Verification of the Further Manufacturing Response of Companhia Siderurgica Nacional S.A. in the Antidumping Duty Investigation of Hot-Rolled Steel Flat Products from Brazil," dated June 3, 2016; and, "Verification of the Cost of Production Response of Companhia Siderurgica Nacional S.A. in the Antidumping Duty Investigation of Certain Hot-Rolled Steel Flat Products from Brazil," dated June 8, 2016.

assigned to Usiminas because Usiminas failed to respond to sections B, C, and D of the Department's questionnaire in this investigation.¹⁰

The Department received no comments regarding its preliminary application of the adverse facts-available dumping margin to Usiminas. For the final determination, the Department has not altered its analysis or its decision to apply the adverse facts-available dumping margin to Usiminas.

Changes Since the Preliminary Determination

Based on CSN's supplemental cost responses and revised sales and cost files, our findings at verification and our analysis of the comments received, we made certain changes to the margin calculations for CSN. For a discussion of these changes, *see* the "Margin Calculations" and "Comparisons to Fair Value" sections of the Issues and Decision Memorandum. We have also revised the all-others rate.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. For purposes of this final determination, we are assigning 33.14 percent as the "all-others" rate, which is based on the estimated dumping margin calculated for CSN, the only mandatory respondent for which we calculated a dumping margin.¹¹

⁸ *See Preliminary Determination.*

⁹ *Id.* *See also* Memorandum to the File entitled, "Certain Hot-Rolled Steel Flat Products from Brazil: Corroboration of a Rate Based on Adverse Facts Available," dated March 14, 2016.

¹⁰ *Id.*

¹¹ *See* Memorandum to the File, "Antidumping Duty Investigation of Certain Hot-Rolled Steel Flat Products from Brazil: Calculation of All-Others Rate" (All-Others Rate Memorandum), dated August 4, 2016.

Final Determination

The Department determines that the final weighted-average dumping margins are as follows:

Exporter/Producer	Weighted-Average Margin	Cash Deposit Rate
Companhia Siderurgica Nacional	33.14	29.07
Usiminas Siderurgicas de Minas Gerais S.A. (Usiminas)	34.28	30.51
All-Others	33.14	29.07

Disclosure

We intend to disclose the calculations performed to interested parties within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

Final Affirmative Determination of Critical Circumstances, in Part

On December 9, 2015, the Department found that critical circumstances existed for merchandise exported by CSN and Usiminas, but not for "all others."¹² Based on the final sales data submitted by CSN and further analysis following the *Preliminary Determination of Critical Circumstances*, we are modifying our findings for the final determination, in part. For the final determination with respect to CSN, our analysis of the reported monthly shipment data demonstrates that shipments of hot-rolled steel by CSN during the comparison period increased by less than 15 percent over shipments during the base period, and thus, we find that critical circumstances do not exist for CSN. As discussed in the "Use of Adverse Facts Available" section above, Usiminas did not cooperate with this investigation. Thus, we based our critical

¹² See "Antidumping Duty Investigations of Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan, and the Netherlands and Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products From Brazil: Preliminary Determinations of Critical Circumstances", 80 FR 76444 (December 9, 2015) (*Preliminary Determination of Critical Circumstances*).

circumstances determination with respect to Usiminas on AFA and find that critical circumstances exist with respect to it. For all others, we determined that the imports during the comparison period increased less than 15 percent over imports during the base period and, accordingly, that critical circumstances do not exist with respect to all other producers and exporters of hot-rolled steel from Brazil. For a complete discussion of this issue, *see* the “Final Determination of Critical Circumstances” section of the Issues and Decision Memorandum.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of hot-rolled steel from Brazil, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after March 22, 2016, the date of publication of the *Preliminary Determination* of this investigation in the *Federal Register*. Because of our affirmative determination of critical circumstances for Usiminas, in accordance with section 735(a)(3) and (c)(4)(C) of the Act, suspension of liquidation of hot-rolled steel from Brazil, shall continue to apply, for Usiminas, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of the *Preliminary Determination*. Because we find in this final determination that critical circumstances do not exist for CSN and for exporters not individually examined and subject to the all-others rate, consistent with section 735(c)(3) of the Act, we will instruct CBP to terminate the suspension of liquidation of entries, and to liquidate without regard to antidumping duties, entries of hot-rolled steel exported by CSN and all other companies, and entered, or withdrawn from warehouse for consumption on or after December 23, 2015, and before March 22, 2016.

Further, the Department will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above, adjusted where appropriate for export subsidies found in the final determination of the companion countervailing duty investigation. Consistent with our longstanding practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit equal to the amount by which the NV exceeds the U.S. price, less the amount of the countervailing duty determined to constitute any export subsidies.¹³ Therefore, in the event that a countervailing duty order is issued and suspension of liquidation is resumed in the companion countervailing duty investigation on hot-rolled steel flat products from Brazil the Department will instruct CBP to require cash deposits adjusted by the amount of export subsidies, as appropriate. These adjustments are reflected in the final column of the rate chart, above.¹⁴ Until such suspension of liquidation is resumed in the companion countervailing duty investigation, and so long as suspension of liquidation continues under this antidumping duty investigation, the cash deposit rates for this antidumping duty investigation will be the rates identified in the weighted-average margin column in the rate chart, above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of hot-rolled steel

¹³ See, e.g., *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015) and *Notice of Final Determination of Sales at Less Than Fair Value and Negative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea*, 77 FR 17413 (March 26, 2012).

¹⁴ See *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from Brazil: Final Affirmative Determination, and Final Determination of Critical Circumstances, in Part*, dated August 4, 2016; see also the All-Others Rate Memorandum dated concurrently with this notice.

from Brazil no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an Administrative Protective Order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

August 4, 2016

Date

Appendix I

Scope of the Investigation

The products covered by this investigation are certain hot-rolled, flat-rolled steel products, with or without patterns in relief, and whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of thickness, and regardless of form of coil (e.g., in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (e.g., in straight lengths) of a thickness of less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, i.e., products which have been “worked after rolling” (e.g., products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above unless the resulting measurement makes the product covered by the existing antidumping¹⁵ or countervailing duty¹⁶ orders on Certain Cut-To-Length Carbon-Quality Steel Plate Products From the Republic of Korea (A-580-836; C-580-837), and

(2) where the width and thickness vary for a specific product (e.g., the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or

¹⁵ *Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and the Republic of Korea*, 65 FR 6585 (February 10, 2000).

¹⁶ *Notice of Amended Final Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate From India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate From France, India, Indonesia, Italy, and the Republic of Korea*, 65 FR 6587 (February 10, 2000).

- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, the substrate for motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes hot-rolled steel that has been further processed in a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the hot-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Universal mill plates (i.e., hot-rolled, flat-rolled products not in coils that have been rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, of a thickness not less than 4.0 mm, and without patterns in relief);

- Products that have been cold-rolled (cold-reduced) after hot-rolling;¹⁷
- Ball bearing steels;¹⁸
- Tool steels;¹⁹ and
- Silico-manganese steels;²⁰

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.10.1500, 7208.10.3000, 7208.10.6000, 7208.25.3000, 7208.25.6000, 7208.26.0030, 7208.26.0060, 7208.27.0030, 7208.27.0060, 7208.36.0030, 7208.36.0060, 7208.37.0030, 7208.37.0060, 7208.38.0015, 7208.38.0030, 7208.38.0090, 7208.39.0015, 7208.39.0030, 7208.39.0090, 7208.40.6030, 7208.40.6060, 7208.53.0000, 7208.54.0000, 7208.90.0000, 7210.70.3000, 7211.14.0030, 7211.14.0090, 7211.19.1500, 7211.19.2000, 7211.19.3000, 7211.19.4500, 7211.19.6000, 7211.19.7530, 7211.19.7560, 7211.19.7590, 7225.11.0000, 7225.19.0000, 7225.30.3050, 7225.30.7000, 7225.40.7000, 7225.99.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.5000, 7226.91.7000, and 7226.91.8000. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7214.99.0060, 7214.99.0075, 7214.99.0090, 7215.90.5000, 7226.99.0180, and 7228.60.6000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

¹⁷ For purposes of this scope exclusion, rolling operations such as a skin pass, levelling, temper rolling or other minor rolling operations after the hot-rolling process for purposes of surface finish, flatness, shape control, or gauge control do not constitute cold-rolling sufficient to meet this exclusion.

¹⁸ Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

¹⁹ Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

²⁰ Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Final Determination of Critical Circumstances
- V. Margin Calculations
- VI. Comparisons to Fair Value
- VII. Discussion of Issues
 - Comment 1: Duty Drawback
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 - Comment 6: Whether to Use a Consolidated or Non-Consolidated Financial Expense Ratio
 - Comment 7: The Market Value for Affiliated Energy Inputs
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- VIII. Recommendation

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